

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)

Streamlining the International)
Section 214 Authorization Process)
and Tariff Requirements)

IB Docket No. 95-118

COMMENTS OF ACC GLOBAL CORP.

ACC Global Corp. ("ACC"), by its undersigned counsel, hereby submits these comments in support of the Commission's Notice of Proposed Rulemaking.^{1/} ACC, an interexchange carrier authorized by the Commission to provide a variety of international private line and switched services between the United States and various international points,^{2/} applauds the Commission's efforts to "eliminate unnecessary regulatory burdens on international common carriers."^{3/}

As the Commission recognizes, growth in international competition should warrant the reduction of regulatory oversight in some areas."^{4/} ACC participated in the Commission's "roundtable discussion" process, and as detailed below, encourages the Commission to adopt the

^{1/} Notice of Proposed Rulemaking ("NPRM"), IB Docket No. 95-118 (released July 17, 1995).

^{2/} See, e.g. ACC Global Corp., 10 FCC Rcd 3189 (International Bureau 1995) (authority granted to serve over 75 countries using multiple facilities). In addition, several of ACC's U.S. affiliates are authorized by the Commission pursuant to Section 214 to offer resold international switched telecommunications services between the United States and various international points.

^{3/} NPRM at 1, ¶ 1.

^{4/} Id.

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proposals outlined in the NPRM for streamlining the regulatory process for international carriers. In addition, ACC provides below suggested additional revisions to the Commission's rules and policies that would enhance the efforts of U.S.-based carriers to compete in the international marketplace.

I. ADOPTION OF THE PROPOSED RULES IS IN THE PUBLIC INTEREST

ACC supports elimination of regulations and policies that increase the cost of operating in the international marketplace and that unnecessarily impede or delay the entry of U.S.-based carriers into foreign markets. ACC therefore encourages the Commission to adopt the proposed regulations as discussed below.

A. **Streamlined Section 214 Authority for Facilities-based Carriers**

ACC agrees that facilities-based carriers should be permitted to obtain global authority, subject to an "excluded country" list.^{5/} Indeed, the Commission cites ACC's facilities based application as an example of a less costly and burdensome approach for obtaining the authority for multiple countries in the same Section 214 application.^{6/} ACC also supports the proposed rules for simplified procedures and accelerated processing of international Section 214 and cable landing license applications by reducing the information required in Section 214 applications, shortening the comment period on certain facilities based applications up to 28 days and resale applications to 21 days, and encouraging electronic filing of international Section 214 applications.

^{5/} NPRM at ¶ 10.

^{6/} NPRM at ¶ 9 and n. 13.

In addition, ACC concurs that obtaining operating agreements from foreign carriers takes time, and can delay initiation of service to particular countries.^{7/} Therefore, eliminating the requirement that common carriers commence operations within a specified time after obtaining Section 214 authorization recognizes reality. ACC encourages the Commission to repeal this requirement.

B. Streamlined Requirements for Resellers

ACC also supports repeal of the rules that require applicants seeking to resell services to specify the facilities-based carriers (along with applicable tariff citations) that are proposed to be resold. Allowing resale carriers to provide international resale services via any authorized carrier, except those affiliated with the reseller, without supplemental applications identifying additional underlying carriers, will expedite competitive service to the public.

C. Resale of Private Lines to Equivalent Countries

Similarly, ACC also agrees with the Commission that requiring authorized resale carriers to obtain additional authorization to serve countries that subsequently are designated "equivalent" countries places an unnecessary burden on the Commission and on carriers.^{8/} ACC encourages the Commission to adopt the proposed rules that will permit private line resale carriers to obtain "automatic" authorization to use interconnected private lines to provide switched services to all countries that the Commission designates as providing "equivalent" resale opportunities without having to obtain additional Section 214 authorization. The proposal to apply this approach to existing Section 214 authorizations for switched services, permitting carriers with such authority

^{7/} *NPRM* at 7, ¶ 16.

^{8/} *NPRM* at 9, ¶ 21.

to serve any country deemed "equivalent" in the future, will reduce costs for the carriers and the Commission, and will benefit the public interest.

D. Capacity on Private Satellite and Cable Systems

The proposal to eliminate the current requirement that carriers obtain additional Section 214 authority to obtain capacity on noncommon carrier cable and satellite systems also will benefit the public, carriers and the Commission by reducing administrative delay and associated regulatory filing costs. ACC agrees that separate Section 214 authority to add capacity is not necessary once a carrier has obtained specific or global Section 214 authority.

E. Streamlined Discontinuance Procedures

The simplified notification requirement and the reduction in the notification period for carriers that discontinue, reduce, or restrict service to countries with alternative sources of service is in the public interest and should be adopted.

F. Tariff Requirements

If Congress confers forbearance authority upon the Commission, the Commission should use that authority to *forbear from requiring non-dominant carriers to file specific rate tariffs*. In absence of that authority, ACC supports the proposal that tariff requirements be streamlined by permitting all non-dominant resale and facilities-based carriers to file international rates on a one-day notice.

These proposals for streamlining current Commission procedures will serve the public interest by reducing the time and costs associated with regulatory compliance on the both

government and carriers, as the Commission has recognized.^{9/} Accordingly, ACC encourages the Commission to adopt the rules proposed in the NPRM.

II. REVISIONS TO THE COMMISSION'S RULES WOULD PROMOTE COMPETITION

ACC proposes that the Commission adopt new rules and policies (1) to permit authorized private line resale carriers to provide service to "points beyond" a country designated as equivalent, where the equivalent country permits such routing; (2) to establish as a policy matter that growth-based accounting rate structures based on carrier-specific traffic volume thresholds are discriminatory, and make available to all corresponding carriers discount accounting rates based on the total volume of traffic from the U.S. to a specific country, and to establish new guidelines for correspondent agreements.

A. **Private Line Resale Should Be Permitted To "Points Beyond" Countries Designated As Equivalent**

ACC urges the Commission to adopt policies that promote the competitive efforts of U.S.-based companies, and refrain from adopting rules that may inhibit the flexibility of nascent competitive carriers to provide services in foreign markets. ACC supports the "points beyond" proposal advanced in Swidler & Berlin, Chartered's ("S&B") Comments in IB Docket No. 95-22 (April 11, 1995). This revision to the Commission's current policy would promote competition in the international marketplace.

ACC notes that the Commission in this NPRM clarifies that facilities-based carriers need not obtain specific Section 214 for each country served, and may serve a new destination country

^{9/} NPRM at 1, ¶ 1.

on an indirect, switched transit basis ("and beyond") without obtaining Section 214 authority to the ultimate destination. Under the Commission's clarification, as long as a facilities-based carrier has authority to the intermediate routing point, additional authority need not be obtained for routing to the ultimate destination.^{10/}

In contrast, presumably carriers that provide resold as international private line services are restricted from providing "and beyond" routing. ACC endorses strongly the proposal of S&B that "the Commission modify, on an expedited basis, its international private line resale policy to permit carriers to provide service to 'points beyond' the equivalent country when the Commission grants a carrier Section 214 authority to serve a specified country." Permitting the routing of traffic between the U.S. and third countries through leased lines between the U.S. and designated equivalent locations will provide emerging competitive carriers with the flexibility to effectively compete in the global telecommunications market, encourage development of international services competition, and place increased pressure on foreign governments to open their markets for telecommunications services.^{11/}

Elimination of the "points beyond" restriction would provide greater routing flexibility and advance the Commission's overriding pro-competition goals. Further, adoption of this

^{10/} *NPRM* at 8, ¶ 17.

^{11/} The Commission should disregard AT&T's self-serving claim that allowing U.S. carriers to route traffic to "points beyond" will increase the settlements deficit by supporting above-cost accounting and collection rates. As S&B correctly points out, "in the context of imposing a 'points beyond' restriction the concern expressed by large facilities-based carriers about the 'settlements deficient' is a 'straw man.' The Commission should have in its possession adequate data to demonstrate that some large carriers' 'country-direct' and other related U.S. inbound service offerings contribute to a far greater proportion of the so-called 'settlements deficit' than the proportion of the market share that small private line resellers can ever hope to capture." *S&B Comments* at 9.

policy would permit U.S.-owned carriers to establish competitive service offerings in niche foreign markets and allow carriers to use least-cost routing in efficiently configuring their networks. The current policy serves to frustrate rather than promote the Commission's private line resale policy without any offsetting public interest benefits. Allowing carriers to route traffic to "points beyond" the equivalent country would be an effective mechanism for increasing pressure on closed foreign markets to adopt liberalized policies and will place additional pressure on above-cost accounting rates, by allowing bypass of high non-equivalent direct routes to the third countries in favor of routings through the competitive equivalent intermediate "hub" countries.

Moreover, permitting U.S. carriers to provide service to "points beyond" the equivalent country is in the U.S. public interest because it generally encourages global competition, and provides new entrants attempting to establish services in foreign markets with the flexibility required to compete effectively with large dominant carriers.^{12/} The first form of entry permitted in foreign markets is often resale. Allowing initiation of resale through the provision of service to "points beyond" permits customers to become familiar with a new U.S.-based entrant while concomitantly allowing the new entrant to enter a market with lower capital costs than would be required to undertake facilities construction.

ACC submits that encouraging competitive entry through flexible routing arrangements permits U.S. carriers to establish a foothold in a foreign market as liberalization occurs. In addition, elimination of the "points beyond" restriction will encourage the development of increased price and service competition with the global alliances among dominant carriers by

^{12/}See S&B Comments, *supra* at 20.

permitting U.S.-owned resale carriers the opportunity to become established in foreign jurisdictions. Accordingly, the Commission should authorize private line resale carriers to provide service to points beyond a country designated as equivalent.

B. Growth-Based Accounting Rates Should Be Made Available To All U.S. Carriers on a Competitively Neutral Basis

The Commission's current international settlements policy provides that an accounting rate reduction offered to one U.S. carrier by a foreign correspondent must be made available to all competing U.S. carriers in a non-discriminatory fashion.^{13/} This policy is designed to avoid discrimination between U.S. carriers, but many disputes have arisen over compliance with the policy. One area of particular dispute is "growth-based" accounting rates. If "growth" is only calculated based on sheer volume of the largest carriers, such rates can have an anti-competitive, discriminatory effect.

ACC submits that carrier-specific, growth-based accounting rates inherently discriminate against emerging carriers that do not yet have substantial traffic volumes to specified foreign points. ACC does not object to the concept of growth-based accounting as a means of stimulating rates traffic to a country so long as the growth-based accounting rates are competitively neutral. The Commission has an obligation to consider the anticompetitive effects of such rates and ensure that they are offered to all carriers in a competitively neutral manner. Thus, the Commission should approve growth-based accounting rates only when the lower accounting rates are made available simultaneously to all corresponding U.S. carriers based on the aggregate volume of U.S. traffic to the same foreign point. Accounting rates should be

^{13/} 6 FCC Rcd. at 3534.

based on the growth of the overall U.S. traffic volume to a particular foreign point, not simply the additional volume of a large carrier that already has captured substantial volume. This country-specific approach to growth-based accounting rates is in the public interest because it ensures that all U.S. carriers have access to the same accounting rates at the same time without compromising the lower costs to carriers that are presumably pass on to consumers.

C. Carriers Should Be Required to Certify in Their Correspondent Agreements That They Are Not Receiving Preferential Treatment

Carriers are currently required to certify with respect to correspondent agreements that they have "not bargained for preferential treatment " ACC proposes that the Commission change the certification to state that a carrier "has not knowingly received and is aware of no preferential treatment afforded to it." The Commission should require carriers to make such a certification for all markets in which they already hold agreements. This language change will make clear to carriers that they cannot obtain preferential treatment, even if it has not been "bargained for" in the process of obtaining the operating agreement.

ACC also proposes that the Commission adopt new guidelines for review of correspondent agreements. The Commission should prohibit discriminatory buy-in provisions, such as provisions that would requiring more than 1% traffic levels, high capacity or switch modification fees.

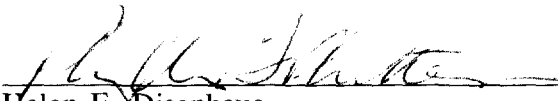
III. CONCLUSION

ACC encourages the Commission to adopt the proposed streamlining of certain procedural requirements and the elimination of outdated and unnecessary regulations as

advocated in the discussion above. Adoption of the proposed rules and policies will enhance the ability of U.S.-based carriers to compete in the international services market. Accordingly, ACC urges the Commission (1) to permit authorized private line resale carriers to provide service to "points beyond" a country designated as equivalent, where the equivalent country permits such routing; (2) to establish as a policy matter that growth-based accounting rate structures based on carrier-specific traffic volume thresholds are discriminatory, and make available to all corresponding carriers discount accounting rates based on the total volume of traffic from the U.S. to a specific country, and to establish new guidelines for correspondent agreements. Adoption of these proposals is in the public interest, will further the Commission's goals and expand competition in the international services market.

Respectfully submitted,

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